

US DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

FEB 22 2019

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

By DOUGLAS F. YOUNG, Clerk
Deputy Clerk

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH SEVEN
FACEBOOK ACCOUNTS, THAT ARE STORED AT
PREMISES CONTROLLED BY FACEBOOK, INC.

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH TWO
GOOGLE ACCOUNTS, THAT ARE STORED AT
PREMISES CONTROLLED BY GOOGLE LLC

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH TWO
WHATSAPP ACCOUNTS, THAT ARE STORED AT
PREMISES CONTROLLED BY WHATSAPP

Case No. 6:19CM03

Filed Under Seal

**APPLICATION FOR ORDER COMMANDING FACEBOOK, INC., GOOGLE LLC
AND WHATSAPP NOT TO NOTIFY ANY PERSON OF THE EXISTENCE OF
SEARCH WARRANT**

The United States, by and through Duane (DAK) Kees, the United States Attorney for the Western District of Arkansas, requests that the Court order Facebook, Inc. "Facebook", Google LLC and Whatsapp not to notify any person including the subscriber and customer of the account listed in the search warrant of the existence of the attached search warrant until further order of the Court or until the matter becomes unsealed pursuant to General Order Number 7 of the Western District of Arkansas.

Facebook, Google LLC and Whatsapp are providers of an electronic communication service, as defined in 18 U.S.C. § 2510(15), and/or a remote computer service, as defined in 18 U.S.C. § 2711(2). Pursuant to 18 U.S.C. § 2703, the United States obtained the attached search warrant which requires Facebook, Google LLC and Whatsapp to disclose certain records and information to the United States. This Court has authority under 18 U.S.C. § 2705(b) to issue "an

order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order.” *Id.*

In this case, such an Order would be appropriate because the attached search warrant relates to an ongoing criminal investigation that is neither public nor known to the target of the investigation, and its disclosure may alert the target to the ongoing investigation. Accordingly, there is reason to believe that notification of the existence of the attached search warrant will seriously jeopardize the investigation by giving the target an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence, change patterns of behavior, intimidate potential witnesses, or endanger the life or physical safety of an individual, specifically certain individuals who provided information to law enforcement during the investigation of offenses under 18 U.S.C. § 1591(a)(1). *See* 18 U.S.C. § 2705(b). Some of the evidence in this investigation is stored electronically. If alerted to the existence of the search warrant, the subject under investigation could destroy that evidence, including information saved to his personal computers.

WHEREFORE, the United States respectfully requests that the Court grant the attached Order directing Facebook, Google LLC and Whatsapp not to disclose the existence or content of the attached search warrant except that Facebook, Google LLC and Whatsapp may disclose the attached search warrant to an attorney for Facebook, Google LLC and Whatsapp for the purpose of receiving legal advice.

The United States further requests that the Court order that this Application and any resulting Order be sealed until further order of the Court. As explained above, these documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of

the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Executed on February 22, 2019.

Respectfully submitted,

DUANE (DAK) KEES
UNITED STATES ATTORNEY

A handwritten signature in black ink, appearing to read "DAK Kees", is written over a horizontal line. To the right of the signature, the letters "AUSA" are handwritten.

For: Kyra Jenner
Assistant U.S. Attorney
Arkansas Bar No. 2000041
414 Parker Avenue
Fort Smith, AR 72901
Telephone: (479) 783-5125
E-Mail Kyra.Jenner@usdoj.gov